
Judiciary Committee

HB 1002

Title: An act relating to allowing a certificate of discharge to be issued when an existing order excludes or prohibits an offender from having contact with a specified person or business, or coming within a set distance of any specified location.

Brief Description: Allowing a certificate of discharge to be issued when an existing order excludes or prohibits an offender from having contact with a specified person or business, or coming within a set distance of any specified location.

Sponsors: Representatives Appleton and Hasegawa.

Brief Summary of Bill

- Allows a sentencing court to issue a certificate of discharge to an offender who has completed all the requirements of his or her sentence, despite the existence of a no-contact order.
- Provides that all no-contact orders, not just those issued under RCW 10.99, remain in effect despite the issuance of a certificate of discharge.

Hearing Date: 1/14/09

Staff: Courtney Barnes (786-7194)

Background:

When a felony offender has completed all the requirements of his or her sentence, the secretary of the Department of Corrections or the secretary's designee notifies the sentencing court. The sentencing court discharges the offender and provides the offender with a certificate of discharge. A certificate of discharge has the effect of:

- restoring all civil rights lost by operation of law, except for the right to bear arms, as the result of conviction; and

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- terminating the sentencing court's jurisdiction to enforce the requirements of the sentence.

Among the civil rights restored are the right to vote, serve on a jury, and hold public office.

E2SSB 6400

In March 2000, the legislature passed domestic violence legislation (E2SSB 6400) which, among other things, added a statutory provision affecting certificates of discharge. This provision specifies that the issuance of a certificate of discharge "shall not terminate the offender's obligation to comply with an order issued under chapter 10.99 RCW . . . that was contained in the judgment and sentence." RCW 9.94A.637(5).

State v. Miniken

In May 2000, two months after the passage of E2SSB 6400 and a month before its provisions became effective, Division One of the Washington Court of Appeals held that a no-contact order issued or extended at sentencing is a "requirement of the sentence." *State v. Miniken*, 100 Wn. App. 925, 929 (2000). Under the Sentencing Reform Act of 1981, a court has the authority to prohibit an offender from having contact with individuals for a period longer than the sentence imposed but not beyond the allowable sentence. When a defendant is convicted of an offense with the maximum allowable sentence of life in prison, a court may issue a no-contact order that continues in effect for the life of the offender.

In *Miniken*, the defendant was convicted of a non-domestic violence offense and completed his prison sentence. A no-contact order was issued pursuant to his conviction with the maximum possible term of life. The defendant had otherwise satisfied his community placement and financial obligations. The no-contact order was the only condition remaining in effect when he requested the sentencing court issue a certificate of discharge. The Washington Court of Appeals upheld the sentencing court's denial of Miniken's request for a certificate of discharge, finding that a "no-contact order is properly characterized as a 'requirement of sentence' and the sentencing court retains jurisdiction until the offender's completion of his or her sentence requirements." The court's decision in *Miniken* establishes that the existence of a valid no-contact order may prevent the sentencing court from issuing a certificate of discharge under RCW 9.94A.637.

The March 2000 statutory provision affecting certificates of discharge in cases of domestic violence no-contact orders has yet to be construed by the courts. The provision may be interpreted to permit the issuance of a certificate of discharge to an offender notwithstanding a valid domestic violence no-contact order imposed at the time of conviction, despite the court's explicit rejection of this proposition for a non-domestic violence offender in *Miniken*.

Summary of Bill:

Despite the existence of a no-contact order, a certificate of discharge may be issued to an offender who has completed all the requirements of his or her sentence. Certificates of discharge will not affect or prevent the enforcement of a no-contact order. A certificate of discharge does not terminate the offender's obligation to comply with an order that excludes or prohibits the

offender from having contact with a specified person or coming within a set distance of any specified location that was contained in the judgment or sentence, regardless of whether the no-contact order was issued under RCW 10.99 (domestic violence no-contact order).

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.